

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THADDEUS KOZINSKI,

Plaintiff,

v.

JOEY HUEBER, et al.,

Defendants.

Case No. [21-cv-03550-TSH](#)

ORDER TO SHOW CAUSE

On May 12, 2021, Plaintiff Thaddeus Kozinski filed this complaint against Defendants Michael, John and Joey Hueber, alleging they denied him entrance to their health club, Body Kinetics Gym, in violation of his rights under the Americans with Disabilities Act. Pursuant to the May 13 scheduling order, July 12 was the last day for Kozinski to complete service or file a motion for administrative relief from that deadline. ECF No. 8. As no proof of service had been filed and Kozinski had otherwise made no appearance since filing his complaint, the Court ordered him to file a status report by August 2, 2021. ECF No. 9. Kozinski failed to respond.

“If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” Fed. R. Civ. P. 4(m). Accordingly, the Court **ORDERS** Kozinski to show cause, in writing and no later than August 23, 2021, why this case should not be dismissed for failure to serve within the time required by Rule 4(m). Notice is hereby provided that failure to file a written response will be deemed an admission that Kozinski does not intend to prosecute, and the case will likely be dismissed without prejudice. Thus, it is imperative the Court receive a written response by the deadline above.

IT IS SO ORDERED.

Dated: August 9, 2021


THOMAS S. HIXSON
United States Magistrate Judge